

# **EXHIBIT A**



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September 30, 2022

**VIA USPS PRIORITY MAIL**

The Honorable Merrick Garland  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

Re: **CAFA Notice of Proposed Class Action Settlement Under 28 U.S.C. § 1715;**  
*In re: Pork Antitrust Litigation*, No. 0:18-cv-01776-JRT-HB, in the United States  
District Court for the District of Minnesota

The Honorable Merrick Garland,

Smithfield Foods, Inc. (“Smithfield”) is a defendant in the above-referenced matter that is pending in the United States District Court for the District of Minnesota before the Honorable John R. Tunheim. In compliance with the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1715, Smithfield hereby serves you with notice that a proposed settlement of this action between Smithfield and the Consumer Indirect Purchaser Plaintiffs as well as a class of similarly situated purchasers (“CIPPs”) has been filed with the Court.

The CIPPs’ latest consolidated complaint asserts a claim for nationwide injunctive relief under Section 1 of the Sherman Act and claims for damages under the antitrust laws, consumer-protection acts, and common-law theory of unjust enrichment of several states. All of the CIPPs’ causes of action arise from an alleged agreement to restrict the supply of, and thereby raise the price of, pork. Smithfield denies all of these claims, denies all liability under all of the CIPPs’ causes of action, but has agreed to settle this

lawsuit to avoid the expense, uncertainty, delay, and other risks inherent in further litigation.

### **PROPOSED SETTLEMENT CLASS DEFINITION**

The proposed settlement class consists of:

All persons and entities who indirectly purchased Pork from any of the Defendants or any co-conspirator, or their respective subsidiaries or affiliates, for personal use in the United States from at least as early as January 1, 2009 until April 2, 2021.

Specifically excluded from the Settlement Class are the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any Defendant. Also excluded from this Settlement Class are any federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action.

### **MATERIALS REQUIRED BY 28 U.S.C. § 1715**

I have enclosed a DVD containing the materials required by 28 U.S.C. § 1715(b). We have prepared this DVD in Adobe Acrobat (.pdf) format.

**(1) A copy of the complaint and any materials filed with the complaint and any amended complaints.**

Folder 1 in the enclosed DVD contains the following complaints filed by the CIPPs: the Class Action Complaint (filed on June 28, 2018); the Consumer Indirect Purchaser Plaintiffs' Second Amended Consolidated Class Action Complaint (Redacted) (filed on November 6, 2019); the Consumer Indirect Purchaser Plaintiffs' Third Amended Consolidated Class Action Complaint (Redacted) (filed on August 3, 2021); and the Consumer Indirect Purchaser Plaintiffs' Fourth Amended Consolidated Class Action Complaint (Redacted) (filed on January 12, 2022).

**(2) Notice of any scheduled judicial hearing in the class action.**

The Court has not set a hearing on the CIPPs' motion for preliminary approval of the settlement with Smithfield. The Court could set a hearing on that motion at any time. To monitor the Court's schedule for hearing dates and changes to hearing dates, you may find scheduling information by visiting the "CM/ECF" online docket for the above-captioned case at [https://ecf.mnd.uscourts.gov/cgi-bin/DktRpt.pl?145327783640445-L\\_1\\_1-1](https://ecf.mnd.uscourts.gov/cgi-bin/DktRpt.pl?145327783640445-L_1_1-1) or the settlement website at [www.overchargedforpork.com](http://www.overchargedforpork.com).

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**(3) Any proposed or final notification to class members of — (A) (i) the members’ rights to request exclusion from the class action; or (ii) if no right to request exclusion exists, a statement that no such right exists; and (B) a proposed settlement of a class action.**

Folder 3 in the enclosed DVD includes the CIPPs’ proposed banner notice, email notice, and long-form notice for the CIPPs’ settlement with Smithfield. Folder 3 also includes the final long-form class action notice and the proposed email notice and banner notice that the Court eventually approved for use for the CIPPs’ prior settlement with one other defendant: JBS USA Food Company (“JBS”).

**(4) Any proposed or final class action settlement.**

Folder 4 in the enclosed DVD contains a copy of Smithfield’s settlement agreement with the CIPPs, which was fully executed on August 4, 2022.

Folder 4 in the enclosed DVD also contains a copy of the class action settlement agreement signed by the CIPPs and JBS on March 12, 2021.

**(5) Any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants.**

As set forth in Paragraph 20 of the Settlement Agreement, Smithfield has the unilateral right to terminate the settlement if Settlement Class Members who meet certain criteria exclude themselves from the Settlement Class. As disclosed in the settlement agreement, Smithfield and class counsel entered into a confidential letter agreement that contains information necessary for the parties to determine whether Smithfield can terminate the settlement. Upon request, Smithfield will provide this supplemental agreement to your office on a confidential basis. Please let us know if you need a copy.

**(6) Any final judgment or notice of dismissal.**

Because the CIPPs’ motion for preliminary approval of their class action settlement with Smithfield was just filed on September 27, 2022, there has been no final judgment or notice of dismissal entered as to Smithfield.

Folder 6 in the enclosed DVD contains a copy of the order granting final approval of the CIPP settlement with JBS and entering final judgment as to JBS.

**(7) (A) If feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State’s appropriate State official; or (B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the**

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**number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement.**

It is not feasible to provide the information requested in subsection 7(A) at this time. Because the proposed settlement class includes class members that bought pork from third parties and not directly from Smithfield, Smithfield does not have knowledge of the names of the class members who reside in each state or the estimated proportionate share of the claims of such class members. The names and state residences of the class members will not be known until after notice of the settlement is given and potential class members submit claim forms, so it is not feasible at this time to provide a list of class member names by state of residence.

Class members that properly submit claim forms and supporting documentation shall receive a share of the settlement fund.

**(8) Any written judicial opinion relating to the materials described under subparagraphs (3) through (6).**

Because the CIPPs' motion for preliminary approval of their class action settlement with Smithfield was just filed on September 27, 2022, there has been no written judicial opinion entered relating to the Smithfield class action settlement, the proposed notice to the Smithfield settlement class, preliminary or final approval of the Smithfield settlement, or the other matters discussed in 28 U.S.C. § 1715(b)(3)-(6).

Folder 8 in the enclosed DVD contains the Court's order granting preliminary approval of the CIPPs' settlement with JBS and the order approving the notice plan for the JBS settlement. Other filings related to the CIPP-JBS settlement are in other folders on the enclosed DVD.

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Any materials relating to the proposed settlement that are filed after the service of this notice can be found by visiting the "CM/ECF" online docket for the above-captioned case at [https://ecf.mnd.uscourts.gov/cgi-bin/DktRpt.pl?145327783640445-L\\_1\\_1-1](https://ecf.mnd.uscourts.gov/cgi-bin/DktRpt.pl?145327783640445-L_1_1-1). These materials can also be obtained by visiting the settlement website at [www.overchargedforpork.com](http://www.overchargedforpork.com), to which class members will be directed to obtain updated information regarding the settlement.

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Please be advised that the parties will ask that the Court find that this notice fully complies with CAFA, and there will be no supplement to this notice. Please do not hesitate to contact me with any questions you may have regarding these materials.

Sincerely,



Brian E. Robison  
Counsel for Smithfield Foods, Inc.

Enclosures